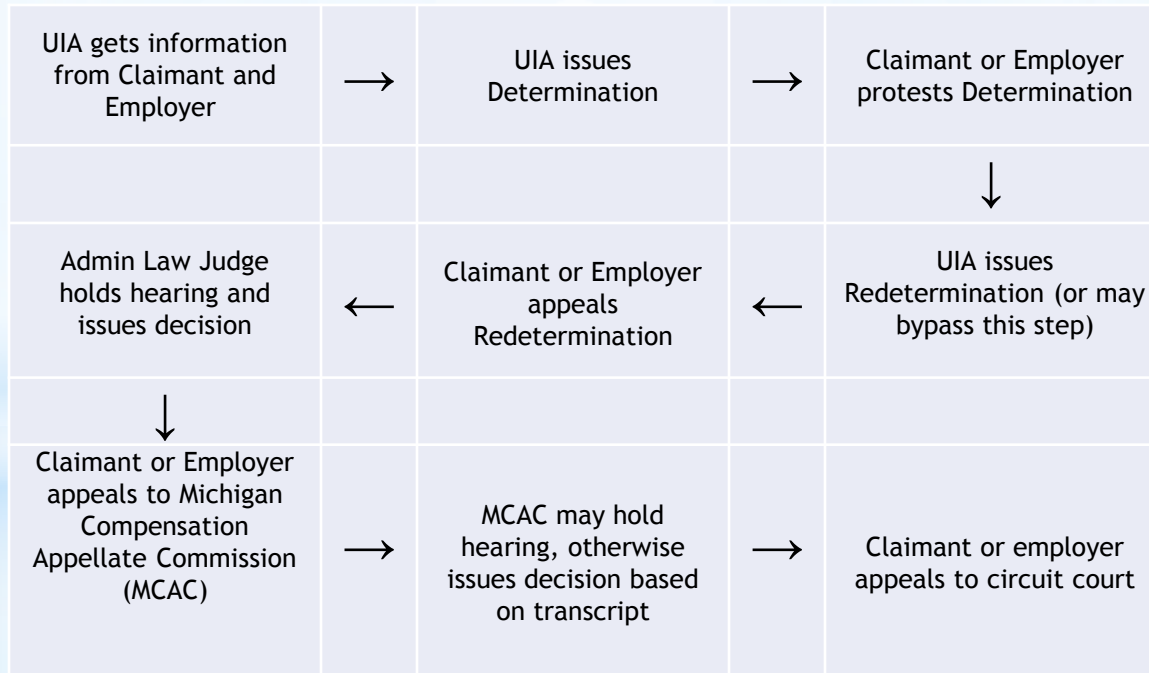




# NAVIGATING MICHIGAN'S UNEMPLOYMENT INSURANCE LAW

# THE APPEAL PROCESS



# THE APPEAL PROCESS

A protest or appeal must be received by the UIA within 30 days of the date of mailing of the dispute Determination or Redetermination.

The 30 days starts to run the day after the date of mailing, and every day counts, including weekends and holidays. If the 30<sup>th</sup> day is a weekend or holiday, the protest/appeal is due by the end of the next day that is not a weekend or holiday.

# THE APPEAL PROCESS

## Why is it important to attend the Administrative Law Hearing?

The Administrative Law hearing is a ***de novo*** hearing, meaning that none of the documents previously given to the UIA will be considered by the Administrative Law Judge (ALJ) in reaching his/her decision.

- ✓ The ALJ takes **testimony** under oath.  
The ALJ applies the **rules of evidence**, similar to the way they are applied in a court of law.
- ✓ Each party gives direct testimony, and is subject to cross-examination.

If the appealing party does not appear at the hearing, the appeal will be dismissed for “lack of prosecution.”

If the party with the burden of proof does not appear at the hearing, the appeal could only be won if the other party makes a “*mea culpa*” statement.

If the party with the burden of proof makes certain statements to meet that burden, the opposing party would wish to be present to respond to those statements, and to cross-examine those statements.

# THE APPEAL PROCESS

In most cases, the Michigan Compensation Appellate Commission (MCAC) reviews only the recording made at the ALJ hearing. Usually there will not even be a hearing before the MCAC, but if there is, only points of law will be open for discussion, generally not the facts of the case. Written argument is permitted only in cases where both sides are represented, or both sides agree to permit written argument, or the MCAC requests it.

# THE APPEAL PROCESS

## What happens at an Administrative Law Judge Hearing?

- ✓ The ALJ determines whether he/she has legal authority (called “jurisdiction”) to hear the case. For example, if the appeal to the ALJ was late, the ALJ lacks authority to hear the case.
- ✓ The ALJ decides what issue(s) are before him/her for consideration. Generally, the issues are defined by the UIA in the Determination they issue.
- ✓ The claimant and employer present *information*, to the ALJ. They do this in the form of statements, under oath, at the hearing (called “testimony”) or in the form of documents supported by testimony, and in the form of answers to questions of the other party (called “cross-examining”)

# THE APPEAL PROCESS

## What happens at an Administrative Law Judge Hearing?

- ✓ The ALJ considers all the information and determines what is reliable and credible and what is not, and makes “findings of facts”.
- ✓ The ALJ cites the Section of the *Michigan Employment Security Act* that applies to the case.
- ✓ The ALJ decides whether the party with the burden of proof has won their case by meeting that burden by a preponderance of the evidence.



# THE APPEAL PROCESS

## Effective Preparation for the ALJ Hearing

- ✓ Exercise protest/appeal rights
- ✓ Read the Notice of Hearing to learn the issue(s) to be discussed at the hearing and about the rights of the parties
- ✓ Consider requesting a telephone hearing
- ✓ Know who has the burden of proof
- ✓ Know what has to be proved
- ✓ Review your file and UIA's file before the hearing
- ✓ Arrive at the hearing on time and sign in
- ✓ Take the right witnesses to the hearing

The **right** witness is the one who can testify as to facts within his or her own knowledge, based upon his or her own observations of the events pertinent to the case.



# THE APPEAL PROCESS

## Effective Preparation for the ALJ Hearing

- ✓ Take the right documents to the hearing.

Documents must be authenticated at the hearing by a competent witness, in order to be accepted into evidence. For example, if the issue is attendance, attendance documents must be introduced by the “keeper of the business records” for the employer. Documents previously sent to the UIA are not part of the Judge’s file and must be offered as “exhibits” at the hearing. Unless accepted by the Judge as exhibits, the documents will not be considered by the Judge or at later appeal stages.
- ✓ Consider contacting an Advocate, Agent, or Attorney

An Advocate is provided at no cost to the employer or claimant. The employer or claimant chooses a local advocate who represents either claimants or employers (not both).

# THE APPEAL PROCESS



Assistance is available, toll-free:  
**1-800-638-3994** and choose menu Item 2.

# THE APPEAL PROCESS

Click on  
“Publications”



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**UNEMPLOYMENT Services Center**

### UIA On Line Services

- [Recent Changes to the State's Regular Unemployment Benefit Program](#) [PDF](#)  
Those who are newly unemployed may have questions regarding the state's regular unemployment benefits. Click here to review some general questions and answers regarding Michigan's unemployment insurance program.
- [1099s Will Be Available Online Beginning February 1, 2012](#)  
Individuals who received unemployment benefits in 2010 can print their year-end tax statements, called 1099-G, as long they have established free online web accounts with the Unemployment Insurance Agency (UIA).
- [UIA Clarifies Recent Changes Made to Monthly Unemployment Benefit Notices](#)  
Click here to read a list of commonly asked questions regarding changes made to Michigan's Unemployment Insurance Agency's (UIA) monthly unemployment benefit notices. These questions provide general information about benefit overpayments, interest accruals and payment options. Questions regarding specific unemployment claims and available payment options should be directed to UIA at 1-800-638-6372.

# THE APPEAL PROCESS

*A Guide To*  
*Unemployment Insurance  
Appeals Hearings*



# THE APPEAL PROCESS

To view a 20-minute Mock Hearing, go to the UIA's Homepage, [www.Michigan.gov/UIA](http://www.Michigan.gov/UIA) and click on "Webcasts". Then find the video.



**LARA Unemployment Insurance Agency**  
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### UIA On Line Services

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- [UIA OFFERS TIPS FOR CONTACTING THE AGENCY](#)  
[Agency also answers some commonly asked questions](#)
- [File an Unemployment Claim Online](#)  
  
File an unemployment claim using our convenient Internet Filed Claims service. The online application is available from 7:00 a.m. Monday to 7:00 p.m. Saturday.
- [File Unemployment Claim By Telephone](#)  
You can file for unemployment benefits by telephone from anywhere in Michigan or North America. The state's unemployment insurance program has established a special toll-free telephone number for you to use in filing a new claim or reopening an established claim.